

FORM NLRB-5168
(2-08)

1 City of New York

Case No. 2-CA-39988
2-CA-40056

4 County of New York

6 **Confidential Witness Affidavit**

8 I, Jill Howard, being first duly sworn upon my oath, hereby state
9 as follows:

11 I have been given assurances by an agent of the National Labor
12 Relations Board that this Confidential Witness Affidavit will be
13 considered a confidential law enforcement record by the Board and
14 will not be disclosed unless it becomes necessary to produce the
15 Confidential Witness Affidavit in connection with a formal
16 proceeding.¹

18 My business address is 345 West 42nd Street, NY, NY 10036.

19 My direct business telephone number is 212-767-0606.

21 1. I have been a managing director for Preschool of
22 America, Inc (POA or Employer) since around August 2009. When I
23 started in this position, POA had just created two managing
24 director positions (myself and Mego Gojka), prior to this POA did
25 not have managing directors. Before becoming a managing director
26 for POA, I was most recently the site director at POA's Chelsea
27 facility located at 600 6th Avenue (Chelsea) from about August
28 2006 until around August 2009. As a managing director my duties
29 are to oversee the site directors at POA's about 11 preschools
30 around the city, handle employee benefits and unemployment claims

¹ **PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further an unfair labor practice or representation case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

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1 and benefits and field parent complaints from parents and site
2 directors.

3 2. After their six month probation, employees of POA are
4 entitled to personal, sick and vacation leave depending on their
5 length of employment. Their allotted number of days for
6 personal, sick and vacation leave varies based on how long they
7 have worked for POA. For the first six months an employee is
8 employed, they are on probation and do not have any paid leave.
9 From six months to one year, employees are entitled to 3 days of
10 paid sick/personal leave. Between one year of employment and two
11 years of employment, employees are entitled to six paid
12 sick/personal leave days. After two years, employees are
13 entitled to 12 paid sick and personal leave days. In addition,
14 POA was closed for two weeks a year, one week for spring break
15 and one week for winter break. In the spring of 2010, POA
16 decided to remain open during winter and spring breaks commencing
17 with the winter break 2010. Instead, POA decided to give certain
18 employees vacation leave. The vacation leave policy takes effect
19 September 2010 and is in addition to their sick and personal
20 days, on the schedule that I described above. In their first
21 year, an employee is not entitled to any vacation leave. Between
22 year one and year two of their employment, an employee is
23 entitled to five days of vacation and after an employee has been
24 employed for two plus years, an employee is entitled to ten days
25 of vacation. An employee may only take one paid sick/personal
26 day per month. Any time off over the one sick/personal day is
27 unpaid.

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1 3. When I was the site director at Chelsea, employees
2 would request personal leave or planned sick leave (i.e. a
3 surgery) by asking me. Usually I would tell the employee to look
4 at my calendar. I maintained a calendar on the wall in my office
5 where I recorded who planned to be absent on any given day. My
6 policy was that if there were already two people who would be
7 absent on a given day, then no one else could take planned leave.
8 Once the employee looked at my calendar and saw that there were
9 less than 2 employees already out on the day they were requesting
10 off, they would complete a request for leave form. The employee
11 would give the request for leave form to me and I would sign off
12 on the request for leave form. I would then place the leave
13 request form and any documentation provided by the employee in
14 their personnel file. This was the practice regardless of
15 whether or not the day off was a paid day off or not.

16 4. As the site director at Chelsea, I performed reviews
17 of employees. The reviews were written by me, and I evaluated
18 the teachers based on my observations, parent feedback, time and
19 attendance records and disciplinary history. I gave each
20 employee a copy of their written evaluations when I had completed
21 them. I tried to, but did not always evaluate each teacher and
22 assistant teacher twice a year, approximately once in November
23 and approximately once in April. I did not always conduct
24 reviews right before contract renewals around August of each year
25 because evaluations are time consuming and there were too many
26 employees to do that. I knew whose contracts would be renewed
27 based on my experience with the teachers and assistant teachers



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1 throughout the year. I would place each teacher and assistant
2 teacher's evaluation in their personnel file.

3 5. Between September 2006 and August 2007, as the site
4 director at Chelsea, I recall that I terminated one employee
5 during the school year. I recall that I terminated the employee
6 because she used language that was not suitable for children
7 around the children and that she was insubordinate. I do not
8 recall whether or not she had been disciplined prior to her
9 termination. Around August 2007, I did not renew approximately
10 three teacher's and assistant teacher's contracts for the 2007-
11 2008 school year. During the 2007-2008 school year, I recall
12 firing approximately one employee, an assistant teacher. The
13 assistant teacher was terminated because she called out of work
14 at the last minute frequently and was late a lot. I recall that
15 she was terminated after receiving verbal and written warnings.
16 She continued to call out of work and appear late, so she was
17 terminated. I do not recall when she was terminated, but it was
18 during the school year. Around August 2008, I did not renew the
19 contract of one teacher, a head teacher. I recall that the head
20 teacher was terminated after receiving verbal and written
21 warnings because of complaints that I received from parents and
22 insubordination. I do not recall when I terminated her, but it
23 was during the school year. Around August 2009, while I was
24 still the Chelsea site director, I did not renew one head
25 teacher's, Lena Franklin, contract because she would call out of
26 work last minute too often, and was frequently late. I recall

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1 that I had issued Lena Franklin written warnings prior to her
2 termination, but I do not recall how many.

3 6. I recall meetings around October 2009, with the site
4 directors and the other managing director, Mego, where Mego and I
5 handed out standard evaluation forms for the site directors to
6 use. We instructed the site directors to use the standard
7 evaluation forms. We did not tell them when to do their
8 evaluations. It is common practice to place an employee
9 evaluation in their personnel files. I do not check to make sure
10 that the site directors are performing evaluations or that they
11 are placing the evaluations in employees' personnel files.

12 7. I am not regularly involved in any site director's
13 review process. I may become involved if a site director asks
14 for advice. The site director makes the final personnel
15 decisions, and they do not inform me of their decisions prior to
16 informing the employee. I do find out after employees are fired
17 or their contracts are not renewed. If a person is fired or
18 their contract is not renewed, the site director fills out a
19 termination/resignation form and forwards it to myself and Mego.

20 8. Beginning around late 2009 or early 2010, I recall
21 Catherine Madaio (Madaio), former West End site director,
22 forwarding us e-mails complaining that Tameka Singleton and Hope
23 Dublin were insubordinate, and specifically that Tameka had
24 yelled at Catherine in her office. I do not recall Catherine
25 complaining about Tameka Singleton and Hope Dublin's time and
26 attendance. She made these complaints on several occasions. I
27 do not recall what my advice to her was, but I think I told

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1 Catherine to document the incidents and that if it continued to
2 terminate them. Catherine's last day was around June 3 or 4,
3 2010. *I relayed these complaints to Robin around June 7th JH.*

4 9. I interviewed Robin about three times. We were
5 letting Catherine because of her mismanagement of the West End
6 facility. During the course of the interview process, I told
7 Robin that the parents were complaining that there were
8 inconsistencies in teachers at the facility because the staff was
9 always out. I said that there were issues with communication
10 between the school and the parents because Catherine was not
11 effectively communicating with the parents. I told Robin that
12 Catherine was not following up on teachers' or parents' concerns.
13 I told Robin that Catherine did not know the policies well and
14 did not enforce them well, amongst the staff and the parents.

15 10. When Robin started on or around June 7, 2010, I worked
16 with her at West End to train her in her new position, and I knew
17 the parents of the West End children and the teachers, so I
18 thought it would make the process easier. I worked at West End
19 with Robin for approximately two weeks, until around June 18,
20 2010. Robin had previously trained at 42nd Street, and she had
21 been given the forms and the DOH rules that governs preschools.
22 I stayed in the office, answering the telephones while she went
23 around and observed the teachers and assistant teachers. I
24 recall that around June 7, 2010, Samantha Giordana Grerena
25 (Samantha) came to me and told me that Catherine had cut her
26 hours. I asked Samantha why Catherine had cut her hours.
27 Samantha said that it was because she was late a lot and she was

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1 out a lot. I told Samantha that we could probably get her more
2 hours, if she improved her attendance. I told Robin that she
3 should give Samantha a second chance and see if Samantha could
4 improve her attendance. I think, but I am not sure, that soon
5 thereafter, Robin gave Samantha more hours because we needed
6 coverage. In addition, Robin began to look through everyone's
7 personnel files. I saw Robin looking through the cabinet where
8 the personnel files are kept, and I saw her with open personnel
9 files, but I did not look at the files and I did not see whose
10 files she was reviewing. I had previously told Robin that
11 Catherine had had issues with Tameka Singleton and Hope Dublin.
12 At some point, Robin came to me and said that Reina Peralta's
13 classroom was unorganized and that Robin did not like Reina's
14 interactions with the children. During the two weeks that I was
15 present at West End, I witnessed Reina Peralta yelling at the
16 children several times. I also recall that Robin said that while
17 she was looking through Anesia Lloyd's (Anesia) personnel file,
18 that Anesia wasn't qualified to be a head teacher. I said that
19 if she wanted to keep her head teacher status, she would need to
20 take a class. At a later date, but I do not remember when, Robin
21 told me that Anesia was not interested in taking a class and
22 Anesia was being changed to an assistant teacher position.
23 Between June 7 and June 10, 2010, I recall Robin telling me that
24 in her experience in those two weeks working at West End, and
25 after reviewing the personnel files, that Robin wanted to get rid
26 of about half of the staff. I said that it was her school now

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1 and she could do what she wanted. I do not recall saying
2 anything else in this conversation.

3 11. I recall several conversations with Robin between June
4 7, 2010, and until around August 2010. I do not recall the
5 specific conversations, but I remember that she would complain
6 that she did not have enough teachers or assistant teachers due
7 to latenesses and absences of the teachers at her facility, and
8 she would ask me for resumes. She did not say whether she wanted
9 the resumes to hire new teachers or to hire substitute teachers.
10 I believe that there were a few people hired over the summer, but
11 I do not know how many and when they were hired, and that certain
12 staff members from another POA facility worked at West End for
13 some period of time. I recall at least one conversation where
14 Robin complained that Samantha was calling out a lot. In this
15 conversation, I told Robin then Robin should let Samantha go. I
16 recall another conversation with Robin where Robin was
17 complaining that Samantha was telling Robin how to do something,
18 and that Robin did not like Samantha's tone with Robin. I said
19 that if she was out a lot and had these issues with Samantha,
20 then Robin should let her go. I do not recall Robin talking
21 about any other specific employees or any other types of work
22 performance issues relating to the employees between June and
23 September 2010.

24 12. On or around July 27, 2010, a meeting was held at West
25 End with me, Mego and Robin with about fifteen assistant
26 teachers. When the meeting started, either me, Mego or Robin
27 handed the assistant teachers a handout titled "union versus non-

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1 union." I said that we wanted to make sure that the employees
2 were fully informed before they make a decision on how to vote,
3 and that we wanted to go over some pros and cons about union
4 membership. I said that if they had any questions, ask them
5 while we were talking. Robin began to read through the union
6 versus non-union handout. I do not remember Robin saying
7 anything other than reading off of the handout. When Robin got
8 to the improved credential section, I said that I was hired as a
9 teacher and then I was promoted to director and then promoted to
10 managing director. When Robin got to the health plan section, I
11 remember saying that my husband has health insurance and he still
12 pays \$500 a month for his health insurance. I recall that one of
13 the assistant teachers said that she did not know what to do with
14 her children during the winter break, if they have to work. I
15 asked how old the child was, and suggested that if they were the
16 right age, we could see if we could find coverage for those
17 children in one of the schools. I remember Mego speaking during
18 the meeting, but I do remember what she said. I recall that the
19 assistant teachers had questions about the union that we did not
20 know the answers to. I wrote the questions down. I do not
21 recall what the questions were. I recall one employee saying
22 that Robin told her that Robin would replace her. I recall Robin
23 saying that she never said that. I said that maybe the employee
24 misunderstood Robin. The employee said that she did not
25 misunderstand Robin. Robin said that she definitely did not say
26 that and that the employee must have misunderstood. Robin was
27 just telling the employee the basic steps of what happened with a

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1 union strike, but the employee missed the entire middle part of
2 the conversation. Robin did not say what she was referring to,
3 but it sounded like the information we were scripted so I thought
4 that Robin had been talking about the fact that we would have to
5 replace employees if they went on strike. That is all that I
6 recall from the meeting. The meeting lasted about an hour. I
7 left the meeting before it ended. I e-mailed the employees'
8 questions to POA's lawyer.


9 13. I was not involved in any of Robin's evaluations of
10 the West End teachers or assistant teachers. I talked to Robin
11 during her evaluation process, and I remember Robin saying can
12 you believe that this person took over x number of days over
13 their allotted time. I recall that Robin was not calling me for
14 advice, but we speak often and we were just chatting and these
15 things would come up. I do not recall Robin saying anything
16 specific about individual employees in August 2010. Robin did
17 not inform me of which teachers and assistant teachers that she
18 was renewing for the 2010-2011 school year. I found out which
19 teachers Robin did not renew when I received a
20 termination/resignation form for each person and I had a
21 subsequent conversation with Robin where she told me who she had
22 not renewed. I do not recall anything else from the conversation
23 and I don't recall Robin saying anything specific about any
24 specific employee.

25 14. On or around August 25, 2010, I was at the POA
26 facility at 1501 Lexington Avenue (LEX) because Gina Cavitolo
27 (Gina), site director, or Gail Wells (Gail), site director has

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1 asked me to be present when they informed Reina Peralta that she
2 was being asked to leave a few days before her resignation date.
3 About a week before August 25, 2010, a parent called me and asked
4 me if it was true that there were several unlicensed teachers
5 teaching at LEX. In the conversation he told me that his child
6 was in Reina Peralta's class. He did not tell me who told him
7 this information, but I surmise that it was Reina Peralta because
8 she had resigned and his child was in her class. I told him that
9 we followed the laws at our schools and that I would follow up
10 and do some investigation. I hung up with the parent and called
11 Gina told Gina that Reina was causing problems in her class by
12 divulging confidential information, or information that is not
13 true. Gina then said that Reina Peralta was constantly on her
14 cell phone in her classroom and said that she was causing other
15 problems, but did not say what they were. I do not recall if I
16 suggested it, but it was decided by me, Gail and/or Gina that we
17 would let Reina Peralta go a few days before her resignation
18 date.

19 15. Gail was terminated on or around September 14, 2010,
20 because her communication skills with parents were not good based
21 on her letters to parents and her conversations with parents. I
22 recall that her letters were short and pithy and were not
23 empathetic. I had discussed this with her on several occasions,
24 and I had given her samples to improve her communication skills.
25 I did not issue Gail a written warning about this. Gail no
26 longer works for POA.

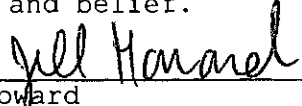


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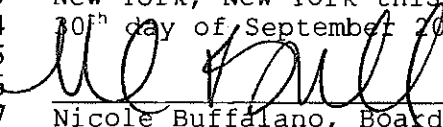
1 16. During the month of July 2010, I recall that I handed
2 out union literature at LEX, and went to LEX to give them copies
3 of the new handbook around August 2010, but I did not have any
4 conversations with any employees about a union. When I handed
5 them the union literature at LEX, I recall telling employees that
6 they could contact me with any questions. No one contacted me.

7 I am being provided a copy of this Confidential Witness Affidavit
8 for my review. If, after reviewing this affidavit again I
9 remember anything else that is relevant, or desire to make any
10 changes, I will immediately notify the Board agent. I understand
11 that this affidavit is a confidential law enforcement record and
12 should not be shown to any person other than my attorney or other
13 person representing me in this proceeding.

14
15 I have read this statement consisting of 12 pages, including this
16 page. I fully understand its contents, and I certify that it is
17 true and correct to the best of my knowledge and belief.

18
19
20 
Jill Howard

21 Sworn to before me at
22 26 Federal Plaza, Room 3614
23 New York, New York this
24 30th day of September 2010

25 
26
27 Nicole Buffalano, Board Agent,
28 National Labor Relations Board
29